

FREQUENTLY ASKED QUESTIONS ABOUT JUDICIAL CONDUCT IN ILLINOIS

What is the Judicial Inquiry Board?

It is an independent agency created by Article VI, Section 15(b) of the 1970 Constitution of the State of Illinois to investigate and prosecute allegations of judicial misconduct or incapacity against Illinois state court judges.

The Judicial Inquiry Board (“the Board”) is composed of four non-lawyers, three lawyers, and two judges who review complaints and determine if an investigation is appropriate and which matters will be prosecuted before the Courts Commission.

What is the Courts Commission?

The Courts Commission is not part of the JUDICIAL INQUIRY BOARD, but is an independent Constitutionally created body consisting of five judges and two citizens.

If after an investigation and upon determination by the Board that there is a reasonable basis to publicly charge a judge with misconduct or incapacity, the Board will file and prosecute a complaint before the Courts Commission. The Courts Commission hears the evidence at a public hearing and decides whether charges against a judge have been proven, and if so, whether the sanction should be reprimand, censure, suspend with or without pay, remove from office, or retire a judge.

What is judicial misconduct?

Judicial misconduct usually involves conduct in violation of the Code of Judicial Conduct (Illinois Supreme Court Rules 61 through 68) which may include, but is not limited to: Impropriety and the appearance of impropriety; improper communication with only one of the parties in a case; injudicious temperament (such as rudeness, profanity, or yelling); inappropriate political activity; or delay in performing judicial duties.

Does the Board have jurisdiction over complaints against retired judges, lawyers, police officers, court personnel, administrative law judges, federal judges, arbitrators or hearing officers?

No. The Board only has jurisdiction over complaints against active Illinois Supreme Court Justices, Appellate Court Justices, and Circuit Court Judges.

How do I file a Complaint against a judge?

Request a Complaint form by contacting the Board at 100 West Randolph Street, Suite 14-500, Chicago, Illinois 60601, (312) 814-5554, (800) 227-9429, TDD 312 814-1881 or Fax (312) 814-5719. You may also download a Complaint form from our

website – www.state.il.us/jib. Completely answer all questions on the form and return it to the above address.

or

You may write a letter detailing what the judge did that you believe constitutes misconduct or indicates incapacity. You must provide the judge's first and last name; the case number and name (if your complaint concerns a court case); type of case (e.g. criminal, domestic relations, small claims); your relationship to the case (e.g. plaintiff, defendant, witness); the names of any witnesses, including attorneys; date(s), time(s), and location of the misconduct; and your first and last name, address, and telephone number.

Does the Board accept anonymous Complaints?

Yes. Your Complaint should contain specific facts to support your allegations of misconduct or incapacity. Include the Judge's first and last name; case number and name (if your Complaint concerns a court case); all pertinent dates and times as well as the location of the misconduct; and names(s) of witnesses, if known.

Do all Complaints result in an investigation?

No. Please note that requests seeking intervention in ongoing litigation or the review of judicial decisions are beyond the authority of the Board to investigate.

If the Board does not take action on my Complaint, what happens to it?

Your written Complaint is retained in the files of the Board for future reference should other persons make subsequent allegations of the same nature against the same judge. Your file might then be reopened to determine if a pattern of misconduct is developing.

Can I get a judge off my case if I file a Complaint?

No. There are statutory provisions for litigants to seek a substitution of judge or a change of venue. Your Complaint is separate from your court case.

How long does it take to resolve an investigation of judicial misconduct or incapacity?

It may take many months for ultimate disposition of a case depending upon the complexity of the matter.

Should I delay my appeal until the investigation of judicial misconduct or incapacity is disposed of?

No. You must proceed with whatever remedy is available to you within the court system to correct any judicial errors you believe were committed in your case.

The investigation of judicial misconduct or incapacity is a matter totally independent of your litigation and is not a substitute for the appellate process.

What role do I play in the investigation and prosecution?

Once you file a Complaint and the Board determines it has jurisdiction to investigate, you may be contacted for further information.

In the event formal charges are brought against the judge, you may be called as one of the witnesses before and/or during the prosecution phase.

Formal charges are brought against a judge in the name of the Board and not in your name. You will only act as a witness.

Have any judges been disciplined?

The Courts Commission has disciplined Illinois state court judges. Additionally, judges have resigned from office during the Board's investigation and before any public hearing.

Are Complaints confidential?

Generally, Complaints and the fact that a Complaint has been made, are confidential. Judges are not routinely informed when a Complaint has been filed and judges are not usually contacted about a Complaint unless and until it becomes necessary to the investigation. Many Complaints are investigated (investigations may entail interviewing attorneys, court personnel and other witnesses) without notifying the judge of the investigation. In the course of an investigation, the judge may be provided an opportunity to respond to the Complaint while the proceeding is confidential.

In the event that the Board publicly charges a judge with misconduct, documents filed with the Courts Commission become public, as would your testimony if you were to be a witness at the public hearing.

In regard to confidentiality, the Constitution of the State of Illinois and the Board's Rules of Procedure provide as follows:

Constitution of the State of Illinois, Article VI, Section 15(c):

All proceedings of the Board shall be confidential except the filing of a complaint with the Courts Commission.

Rules of Procedure of the Judiciary Inquiry Board, Rule 5 – Confidentiality:

(a) The proceedings of the Board and all information and materials, written or oral, received or developed by the Board in the course of its work, insofar

as such proceedings and information or materials relate to the question of whether a judge is guilty of misconduct or suffers from disability, shall be confidential and privileged as a matter of law.

(b) When the Board has conducted an investigation but determined not to propose any charges to the judge in question, the Board shall by letter notify the judge and the person, if any, who had brought the matter to the attention of the Board, that such a determination has been made; provided, however, that no such information need be furnished to the judge unless it appears to the Board that he knows, or has reason to know, that a communication was made about him or her to the Board or that the Board conducted an investigation which involved the judge.

(c) When the Board has conducted an investigation and proposed charges to a judge, and subsequently determined that a reasonable basis does not exist for the filing of a complaint with the Commission, the Board shall by letter notify the judge and the person, if any, who had brought the matter to the attention of the Board, that such a determination has been made. The issuance of such letters does not mean that the repetition of such charged conduct, or other conduct violations coupled with the charged conduct or repetitions thereof, could not give rise to a future determination that a reasonable basis exists for the filing of a complaint with the Commission.

(d) In matters of contempt or perjury in Board proceedings, the Board may initiate appropriate action, including court proceedings, in order to protect the integrity of Board proceedings. When the Board takes such action, the Board may make such disclosures as are necessary to prosecute the action. **(Amended effective April 10, 1998.)**

(e) After any disposition of a matter, the Board, if it believes that fairness and the public interest require it, may issue a public announcement of the Board's determination.

(f) When the Board is in the process of conducting an investigation based upon factors or complaints submitted by the subject judge's chief or factors already disclosed to the public by some other manner, and where that chief judge, pursuant to Supreme Court Rule 56, has temporarily assigned the judge to restricted duties or duties other than judicial duties, the Board may advise the chief judge when, and if, it is of the opinion that the judge subject to investigation may be returned to his or her regular assignment. Such disclosure may be made only upon the concurrence of the judge subject to investigation. In such circumstances, the chief judge shall be bound by the same rule of confidentiality and privilege as the Board itself. **(Adopted effective, April 10, 1998.)**

Does the Board give legal advice?

No. The Board cannot give legal advice or assistance or represent individuals